**IN THE HIGH COURT OF UTTARANCHAL,**
**NAINITAL.**

**WRIT PETIITON NO. 1258 OF 2002, (S/B).**

Union of India through General Manager, Ordinance Factory Raipur, Dehradun.

..... Petitioner.

Versus

1.Smt. Kamla Devi W/o Ramdin, R/o Badrinath Colony, Patharia peer, Dehradun.
1/1.Ramdeen, husband of respondent no.1.
1/2.Chotu, son of respondent no.1.
1/3.Monu, son of the respondent no.1.
1/4.Km. Reena, daughter of respondent no.1.
1/5.Km. Anamika, minor daughter of respondent no.1.
1/6.Km. Preeti, minor daughter of respondent no.1.
All resident of Badrinath Colony, Patharia Peer, Dehradun.
2.Central Government Industrial Tribunal Cum Labour Court, Lucknow.
3.Assistant Labour Commissioner, Lgovt. of India, Ministry of Labour, Office of Asstt. Labour Commissioner, 59 C, Tyagi Road, Dehradun.

..... Respondents.

Ld. Standing Counsel (Central Government) for petitioner.
Shri M.C. Pant, learned counsel for the respondent no.1.

**02.09.2005.**

**HON'BLE P.C. VERMA, J.**

This writ petition has been filed by the petitioner challenging the award dated 24.05.2002 in I.D. Case No.22 of 2000 by which the respondent no.1 has been reinstated and the Tribunal has further awarded full back wages and Rs.1000/- as expenses towards litigation.

A dispute was referred vide order No. L-14012/88/99/IR (DU) dated 22.02.2000 which was registered as Industrial Dispute No.22 of 2000. The reference was made in the following terms:

**"Whether the action of the Management of Ordinance Factory, Dehradun in terminating the services of Smt. Kamla Devi, Ex- Sweeper is fair, legal and justified? If not, what relief the workman is entitled and from what date?**

Brief facts of the case are that the respondent No.1 was working on the post of sweeper w.e.f. 01.01.1989 against a permanent vacancy in the Ordinance Factory, Dehradun. Her name was sponsored by the Local Employment Exchange and the Board of selection approved for appointment. However, before her appointment, ban was imposed on fresh appointment and so she was engaged as daily wager. She continuously worked for about 4 years till 31.07.1993 and in each year worked for more than 240 days. The Labour Court, after considering the evidence on record, found that the respondent no. 1 had completed 240 days in a calendar year and, therefore, ordered for reinstatement being a daily wager employee. Being aggrieved by the order of Labour Court, the petitioner has preferred the present writ petition.

I have heard learned counsel for the parties and perused the entire material on record.

The Tribunal, after considering the pleadings and statements of the parties, decided the question of Industry relying upon the decision of Hon'ble Apex Court reported in **1996(72) F.L.R. page 841 Chief Conservator of Forest Vs Jagannath Maruti Kondhare.** The Hon'ble Apex Court in this case held that sovereign function strictly understood alone qualify for exemption and not the welfare activities or economic adventures undertaken by the Government and relied upon the wide definition of the Industry given by the Hon'ble Supreme Court in the case of **Banglore Water Supply Vs A. Rajappa reported in F.L.R. 1978 (36) page**

**266** and accordingly held that it was an Industry wherein the respondent no.1 was employed.

The second question regarding employment of the respondent no.1 with the petitioner has been dealt with by the Labour Court in detail. The document which has been issued by the Director General, Ordinance shows that benefit of Section 25-F of Industrial Dispute Act be given to those workmen who had completed 240 days in a year for two years. It is admitted that the respondent had completed 240 days in each calendar year. Therefore, the Tribunal has rightly held that the action of the Management by not giving retrenchment compensation to the respondent no. 1 without any notice was void and respondent no. 1/workman deserves reinstatement.

In view of the findings recorded above, I do not find any infirmity in the order passed by the Labour Court. The findings recorded by the Labour Court are findings of fact and this court in exercise of powers under article 226 of the Constitution of India, declines to interfere with the findings recorded by the Labour Court.

Accordingly the grounds of challenge fail and writ petition is dismissed. No order as to costs.

**(P.C. Verma)**

Dated: 02.09.2005.
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